

Remarks

Claims 1-4, 6, and 7 are pending in the application. Claims 5 and 8-20 were withdrawn from consideration. Claim 1 has been amended herewith. Claim 21 has been added. No new matter has been added by the amendments. Reconsideration is respectfully requested.

Oath/Declaration

The Office action stated that the oath/declaration was defective because "it does not identify the city and either state or foreign country of residence of each inventor." Office action, page 3. The Office action stated that "[t]he residence information may be provided on either an application data sheet or supplemental oath or declaration." Office action, page 3. Applicants submit that an application data sheet providing the residence information was submitted to the U.S. Patent and Trademark Office on July 27, 2007 and a copy of that application data sheet is provided herewith. Therefore, the objection should be withdrawn. If the application data sheet is defective, Applicants respectfully request that the Examiner indicate the reason.

Claim Objections

Claim 1 was objected to for reciting "the said" in line 5. Applicants submit that all occurrences of "the said" have been changed to "said" as "the" was deleted. Accordingly, the objection should be withdrawn.

35 U.S.C. § 112

Claims 1-4, 6 and 7 were "rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which Applicants regard as the invention." Office action, page 3. Specifically, claim 1 was rejected for reciting "the cylindrical walls" with insufficient antecedent basis in the claim. Applicants submit that "the cylindrical walls" was amended to delete the word "the". Therefore, the rejection should be withdrawn.

35 U.S.C. § 103

Claims 1-4, 6, and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wong et al. in view of Ellman et al. This rejection is respectfully traversed. In making the rejection the Examiner states, "Wong et al. discloses all claimed process steps as discussed above, but fails to teach or suggest aluminum plate with cylindrical well." Office action, page 6. Further, the Examiner goes on to indicate that Ellman et al. supplements the missing teachings. Applicants strongly disagree that the cited references teach or suggest the claimed invention.

First, Applicants submit that neither Wong nor Ellman teach or suggest "mixing a polyalkylene with a silane-modified CPG..." and "filling the cylindrical wells of an aluminum plate with said mixture..." as recited in independent claim 1. Wong discloses combining a polyolefin with an inorganic porous material. Wong et al., col. 2, lines 23-56. Wong fails to teach or suggest filling cylindrical wells of an aluminum plate with the mixture. Ellman discloses a substrate that can include one or more reaction vessels or wells 33. Ellman et al., paragraph 46. "One or more particles 31 can be disposed within each well 33 and affixed to substrate 32." Ellman et al., paragraph 46. "The material of the substrate is typically formed of a material that is capable of achieving a state wherein it is malleable or pliable such that particles can be bonded to it...." Ellman et al., paragraph 45. "In

one embodiment, the substrate is a multi-well plate that includes a plurality of wells disposed in arrays." Ellman et al., paragraph 46. "[O]ne or more particles can be affixed to the substrate within each well. The particles can be embedded into the substrate while the substrate is heated to an elevated temperature approximating the melting point of the substrate." Ellman et al, paragraph 48. "As the substrate cools, the particles will typically be permanently bonded to the substrate...." Ellman et al., paragraph 48.

Thus, Applicants submit that in Ellman, the substrate is a part of the cylindrical wells of the plate and the particles are bonded to the substrate/well. Thus in Ellman, the *mixture* of the substrate and the particles do not fill the well. Instead, merely the particles fill the well, as the well itself is the substrate. In contrast, in the claimed invention, the polyalkylene and silane-modified CPG *mixture* fills a well of the aluminum plate. It appears that the Examiner is relying on hindsight reconstruction in rejecting the present claim. Applicants submit that it is improper to select isolated elements from prior art references with the benefit of hindsight and use the disclosure of the patented invention as a template to recreate the patented invention. Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143 (Fed. Cir. 1985). Therefore, for at least these reasons, the cited references fail to teach or suggest the present invention.

Further, neither of the cited references teaches "releasing from said plate said embedded devices." In the Office action, the Examiner states that Ellman et al. supplements the missing teachings of Wong et al. by disclosing the "step of releasing by using releasing sheet." Office action, at 6. Applicants submit that Ellman discloses release of the entire microtiter plate of Ellman from a heating assembly. With regard to releasing Ellman states, "a release

sheet 51 can be placed on the heating assembly in order to facilitate removal of the microtiter plate from the heating assembly after bonding has taken place." Ellman et al., paragraph 68. Ellman merely discloses placing the entire plate on a heating assembly to adhere the particles to the substrate/well and releasing the entire plate, not an embedded device, from the heating assembly (not from the plate). Ellman et al., paragraphs 67 and 69-70. Ellman fails to teach or suggest release of embedded devices from the plate. In contrast, in the present invention, the embedded devices are released from the plate.

Applicants submit that the wells of the aluminum plate of the claimed invention acts as a mold for the embedded devices which are released from the aluminum plate wells, as recited in claim 1. Also, Claim 21 recites, "each of said released embedded devices is a cylindrically shaped plug comprising said polyalkylene and silane-modified CPG mixture, whereby said cylindrical wells of said aluminum plate act as a mold for said released embedded devices." A mold for embedded devices was not contemplated by either Wong et al. or Ellman et al. Wong et al. was concerned with producing a rigid porous sheet while Ellman et al. was concerned with forming a solid phase-support in a well of a plate using the substrate of the well itself. Therefore, for these additional reasons Applicants submit that the cited references fail to teach or suggest claims 1 and 21.

Claims 1-4, 6, and 7 were rejected as being unpatentable over Ellman et al. in view of Wong et al. This rejection is respectfully traversed. As stated above, neither of the cited references teach or suggest "mixing a polyalkylene with a silane-modified CPG..." and "filling the cylindrical wells of an aluminum plate with said mixture..." as recited in independent claim 1.

Further, as stated above, neither of the cited references teach or suggest "releasing from said plate said embedded devices", as recited in independent claim 1.

Claims 2-4, 6 and 7 depend from claim 1. Thus, Applicants submit that these claims are novel and non obvious over the cited references for at least the same reasons provided above with regard to claim 1.

Conclusion

For at least the reasons submitted above, Applicants submit that the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested.

Respectfully submitted,

CERTIFICATE OF TRANSMISSION
UNDER 37 CFR § 1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing System in accordance with § 1.6(a)(4).

Signed: Sally Azevedo
Typed Name: Sally Azevedo

Date: October 9, 2008



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Patents and Trademarks

July 27, 2007

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Paul Shanoski

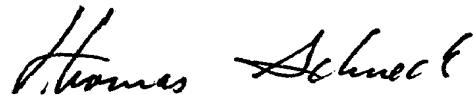
Re: Renewed Petition Under 37 C.F.R. 1.137(b)
Serial No.: 10/776,694
Filed: February 12, 2004
For: DEVICES AND METHODS FOR
THE SYNTHESIS OF NUCLEIC ACIDS
Our ref: NGO-001

Sir:

This is a renewed "Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" for the above-identified application. Petitioners are CTGen, Inc., assignee of the above-identified application acting through its president, Nam Ngo, and Mr. Nam Ngo, one of the applicants here. Previously, CTGen and Nam Ngo were represented pro se but now are represented by the undersigned.

Enclosed in response to the Decision on Petition Under 37 C.F.R. §1.137(b) mailed June 16, 2006 for the above-identified patent application is a completed Application Data Sheet and a newly executed declaration.

Respectfully submitted,



Thomas Schneck

TS:mpg

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Encl: Petition for Revival
Declaration Supporting Petition
Statement Under 37 CFR 3.73(b)
Application Data Sheet
Declaration signed by 3 inventors
Copy of Notice of Abandonment
Check in the amount of \$750
Return post card.

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signed: *Merle P. Garcia*
Typed Name: Merle P. Garcia

Date: July 27, 2007